

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WI-LAN INC.,)
Plaintiff,)
v.) 10 Civ. 432 (LAK) (AJP)
LG ELECTRONICS, INC. and LG)
ELECTRONICS U.S.A., INC.,)
Defendants.)

**PLAINTIFF'S NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT ON
DEFENDANT'S AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

PLEASE TAKE NOTICE that upon the materials listed below, and all prior pleadings and proceedings had herein, Plaintiff Wi-LAN, Inc. will move this Court, before the Honorable Andrew J. Peck, United States Magistrate Judge, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, pursuant to the Order of Reference of the Honorable Lewis A. Kaplan, dated January 22, 2010, for a Report and Recommendation, for an order granting partial summary judgment in Plaintiff's favor pursuant to Fed. R. Civ. P. Rule 56 on the following issues, and for such other relief as deemed just and proper by this Court:

- (1) Defendants' Affirmative Defenses and Counterclaims based on alleged Lack of Notice, Laches, Failure to Mitigate Damages, Unjust Enrichment, Equitable Relief Unavailable, and Invalidity Under 35 U.S.C. § 112; Unenforceability Based on Patent Misuse and Unclean Hands; Prosecution History Estoppel; Inequitable Conduct ; Unenforceability Based on Waiver, Estoppel, Implied License, Implied Waiver, and Unclean Hands.
- (2) Defendants' Counterclaim for Federal Trademark Infringement, False Designation of Origin and Unfair Competition, and Deceptive Acts and Practices.

(3) That the references referred to as "GI" and "DigiCipher" Do Not Qualify as Prior Art.

In accordance with this Court's Order of February 28, 2011, Plaintiff is submitting this single motion that incorporates all dispositive issues, which are addressed in the supporting memoranda and material listed below.

(1) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment on Defendants' Claims and Affirmative Defenses of Lack of Notice, Laches, Failure to Mitigate Damages, Unjust Enrichment, Equitable Relief Unavailable, and Invalidity Under 35 U.S.C. § 112, dated April 1, 2011;

(2) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment on Defendants' Claims and Affirmative Defenses of Unenforceability Based on Wi-LAN's Alleged Patent Misuse and Unclean Hands dated, April 1, 2011;

(3) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment on Defendants' Claims and Affirmative Defenses of Prosecution History Estoppel, dated April 1, 2011;

(4) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment on Defendants' Claims and Affirmative Defenses of Inequitable Conduct, dated April 1, 2011;

(5) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment on Defendants' Claims and Affirmative Defenses of Unenforceability Based on Waiver, Estoppel, Implied License, Implied Waiver, and Unclean Hands, dated April 1, 2011;

(6) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment on Defendants' Claims of Federal Trademark Infringement, False Designation of Origin and Unfair Competition, and Deceptive Acts and Practices, dated April 1, 2011;

(7) Memorandum of Points and Authorities in Support of Plaintiff Wi-LAN Inc.'s Motion for Summary Judgment That GI and DigiCipher Do Not Qualify as Prior Art, dated April 1, 2011;

(8) Statement of Material Facts, dated April 1, 2011;

(9) Declaration of Matthew C. Holohan, dated April 1, 2011, and supporting exhibits;

(10) Declaration of William Middleton, dated April 1, 2011;

(11) Declaration of Craig K. Tanner, dated March 31, 2011;

PLEASE TAKE FURTHER NOTICE that any opposing and answering memoranda to this motion shall be served no later than April 22, 2011, in accordance with this Court's Order of February 28, 2011, which modified the requirements of Local Rule 6.1(b) that all opposing and answering memoranda be served with 14 days after service of the moving papers.

Dated: April 1, 2011

KILPATRICK TOWNSEND & STOCKTON LLP

/s/ Matthew C. Holohan

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